

REMARKS

Claims 1-48 are pending in the present application. Claims 7-19 21-32, 34-48 have been withdrawn from consideration as being directed to non-elected subject matter, and the Action has objected to claims 1-6, 20 and 33. Claims 1,2,5,6,20, and 33 stand rejected. In view of the following Remarks, however, Applicants respectfully submit that all the claims are allowable.

I. Claim Objections

The Final Action has objected to claims 1-6, 20 and 33 as “containing non-elected subject matter”.

In response, Applicants, on December 13, 2006 filed: (1) a response to the Action’s objection, and (2) a petition from the finality of the Restriction Requirement.

Presently at the time of mailing the Advisory Action, Applicants’ response and petition have not been considered. Accordingly, Applicants request that the Action’s objections to the above claims 1-6, and 20 and 33, be held in abeyance pending a decision concerning Applicant’s response and petition filed on December 13, 2006. In good faith, Applicants substantive and procedural options significantly rely on the outcome thereof.

II. Double Patenting Rejection

The Action provisionally rejected claims 1,2,5,6,20, and 33, on the grounds of the Judicially created doctrine of non-statutory obviousness double patenting as being unpatentable over claims 1,2,6,7, 21 and 34 of co-pending Application No. 10/749630 to Kleeman et al. The Action alleges that although the conflicting claims are not identical, they are not patentably distinct from each other.

Pursuant to 37 CFR 1.321, Applicants previously filed a Terminal Disclaimer along with the requisite fee under 37 CFR § 1.20(d), which, according to the Advisory Action, has overcome the above-noted double patenting rejection. Accordingly, Applicants respectfully submit that the rejected claims 1,2,5,6,20, and 33, are allowable.

III. Conclusion

Applicants respectfully submit that, in the absence of any prior art to compromise any of the pending claims, Applicants request an indication of allowable subject matter.

The Commissioner is hereby authorized to charge the fee required and any additional fees that may be needed to Deposit Account No. **18-1982** in the name of Aventis Pharmaceuticals Inc.

Respectfully submitted,

Date March 5, 2007

Robert Kajubi

Robert J. Kajubi, Reg. No.: 55,312
Attorney for Applicants

sanofi-aventis U.S. LLC
Patent Department
Route #202-206 / P.O. Box 6800
Bridgewater, NJ 08807-0800
Telephone (908) 231-3115
Telefax (908) 231-2626

DEAV2002/0094 US CNT